REMARKS

The Final Office Action, mailed July 22, 2008, considered claims 2-20, 22-40, and 42-44. Claims 13-17, 25, 39, and 44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson (U.S. 2004/0073890) in view of Prabhakaran (U.S. 6,859,758), Bourne, and the APA. Claims 2-12, 18-20, 23-24, 26-38, 40, and 42-44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson in view of Prabhakaran, Bourne, the APA, and Ruffolo (U.S. 2003/0196190).

By this response, claims 2, 9, 11, 17, 18, 24, 26, 33, and 35 are amended, claim 15 is canceled, while claims 45 and 46 are added.[1] Claims 2-14, 16-20, 22-40, and 42-46 remain pending of which claims 17, 25, 45, and 46 are independent.

The present invention is directed to allowing a single test case to be performed at various verification levels. By providing customizable verification levels in a single test, the testing engineer is relieved of having to design multiple test cases to perform the same testing but at differing verification levels. Additionally, because a single test case can provide different levels of verification based on user input, the same test case can be used to perform different kinds of tests. For example, a single test case could be customized to provide no verification and be used as a system load test, whereas the same test case could be customized to provide basic verification and be used as a stress test. As is apparent, the present invention relieves the testing engineer from having to provide a matrix of test cases for each individual testing scenario.

Independent claim 45 focuses generally on the ability of a single test case to be customized to provide any one of multiple verification levels. This is done by "receiving verification settings that select one of the more than two levels of verification for the test case to perform when executed." Independent claim 46 contains similar limitations but is drawn specifically to the example that is given in paragraph 25 of the specification. Claims 17 and 25 are similar to claim 46 in that they are directed to specific verification levels that may be provided by a single test case.

None of the cited references discloses the ability to specify a verification level for a single test case. The closest reference is the Johnson reference. Johnson discloses a testing system in which

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[1] Support for the new claims may be found primarily in paragraphs 22 (test cases can be designed with varying amounts of verification which can be set or tuned dynamically), 23 (each verification level represents a different amount of checking or testing that may be performed), 24 (the desired verification level causes the test case to identify and run the software testing instructions that correspond to the desired verification level), 25 (illustrating the various different verification levels that are specifically claimed in claim 46), and 38 (describing the steps performed by the method after which the claim limitations were modeled).

configuration settings are separated from the test cases to allow for a matrix of configuration settings that may be applied to any of the test cases. Although it may appear that the general concept of providing a matrix of tests and configuration settings is similar to the present invention, Applicant submits that they are very different. Primarily, configuration settings are not similar to verification settings. The configuration settings correspond to software or hardware settings of the system under test. *See* ¶¶ 10, 22 (giving example that different configuration settings are used when a first component made by a first manufacturer is used then when a second component made by a second manufacturer is used).

Regardless of the configuration settings used for the test, the test case remains unchanged and performs the same testing with the same verification. The only change is made to the system that is being tested, whether it is a software or hardware configuration setting. In contrast, in the present invention, the test case includes "software testing instructions" which are selectively executed depending on what level of verification has been specified. Therefore, Johnson does not disclose a system that is capable of "receiving verification settings that select one of the more than two levels of verification for the test case to perform when executed."

In addition, the present invention would not be obvious in view of Johnson's disclosure because Johnson would not assist one skilled in the art in designing a system that would allow a user to specify differing levels of verification for a single test case. Again, Johnson does not modify the test cases when different configuration settings are applied in contrast to the present invention. *See* Spec. ¶ 24 (stating that the desired verification level causes the test case to identify and run the software testing instructions that correspond to the desired verification level).

The remaining references likewise fail to teach or suggest this limitation. Prabhakaran does not address any aspect of providing differing test cases. All that is disclosed is that the rate at which the database testing software issues read/write requests can be varied to provide the desired testing. *See* Cols. 5-7. Prabhakaran does not disclose that the verification level is any different when the ratio changes.

Bourne only generally describes a stress test and is therefore irrelevant to the main aspect of the independent claims.

Finally, Ruffolo relates only to the generation of test cases using a test plan, but does not address varying verification levels of a single test case.

In summary, the combination of the cited references fails to address providing varying levels of verification within a single test case. Therefore, this combination fails to teach or suggest each limitation of the claims which require "receiving verification settings that select one of the more than two levels of verification for the test case to perform when executed," among the other claimed limitations.

In view of the foregoing, Applicant respectfully submits that all the rejections to the independent claims are now moot and that the independent claims are now allowable over the cited art, such that any of the remaining rejections and assertions made, particularly with respect to all of the dependent claims, do not need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice, and particularly with regard to the dependent claims.[2]

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at 801-533-9800.

Dated this 22nd day of January, 2009.

Respectfully submitted,

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[2] Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting any official notice taken. Furthermore, although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.